

E-FILED 10/30/07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ESTATE OF ZIAM BOJCIC, et al.,

NO. C05 3877 RS

Plaintiffs,

**ORDER RE TRIAL
PROCEEDINGS**

v.

CITY OF SAN JOSE, et al.,

Defendants.

As noted in the Court's order on defendants' motion for summary judgment, there is a factual dispute in this action regarding whether plaintiffs properly submitted their tort claim, a prerequisite to their claims for relief under state law. In the absence of any authority suggesting that issue is triable to the Court, and because plaintiffs have declined to waive a jury as to that portion of the case, the matter will be tried to the jury. Defendant's request to bifurcate and try this issue first is denied. The 15 hour time limit per side will remain in place.

The parties are directed to submit a proposed verdict form with special interrogatories that

1 includes the threshold issue on plaintiffs' state law claims referred to above no later than the
2 commencement of trial on November 6, 2007.

3
4 IT IS SO ORDERED.

5 Dated: October 30, 2007


RICHARD SEEBORG
United States Magistrate Judge

THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the Court's CM/ECF program.

Dated: 10/30/07

Chambers of Judge Richard Seeborg

By: /s/ BAK